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DATE FILED: 2/8/2022

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

-against-

JONATHAN COLON,

Defendant.

1:20-cr-213 (MKV)

**ORDER ON DEFENDANT'S
LETTER**

MARY KAY VYSKOCIL, United States District Judge:

Jonathan Colon was sentenced by this Court on January 7, 2022. At the sentencing hearing, Mr. Colon was advised that, to the extent he had not waived the right in his plea agreement, he had the right to appeal from conviction and sentence. The Court also advised Mr. Colon that if he was unable to pay the costs to appeal, he may apply for leave to appeal *in forma pauperis*, that is, without paying the costs. Finally, the Court explained that Mr. Colon's notice of appeal must be filed within fourteen days of the judgment of conviction. *See* F. R. App. P. 4(b) (time to file notice of appeal in criminal case is fourteen days of the entry of judgment). The judgment of conviction was filed the same day as the sentencing hearing, January 7, 2022. [ECF No. 249].

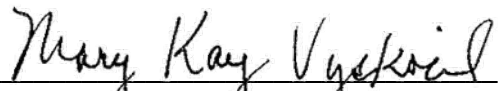
The Court is in receipt of a letter signed by Jonathon Colon dated January 10, 2022, apparently (according to the postmark) not mailed until January 19, 2022, and entered on the docket in this case on January 28, 2022. [ECF No. 251] (the "Colon Letter"). The Colon Letter, addressed to this Court, requests approval to file an appeal and the assignment of an attorney to assist in filing the appeal.

"A criminal defendant's counsel," who represented the defendant at criminal proceedings in the district court, "whether retained or appointed," is expected to continue to represent the defendant on appeal unless relieved by the Second Circuit. *See* 2d Cir. R. 4.1(a). No motion

was filed by Mark DeMarco Esq., counsel for Mr. Colon, seeking to withdraw as counsel following sentencing. After the Colon Letter was docketed in this Court, a notice of appeal was filed on January 28, 2022. [ECF No. 252]. It is noted on that form that the “Appellant is represented by counsel.” *Id.* Because Mr. Colon, represented by counsel, has filed a notice of appeal, this court is divested of jurisdiction, and takes no action on the letter filed at ECF No. 251. *See* Fed. R. Crim. P. 4(b)(5).

SO ORDERED.

Date: February 8, 2022
New York, NY



MARY KAY VYSKOČIL
United States District Judge